

ROUTING SLIP CONTRACTS AND AGREEMENTS

Council Meeting Date: 6/14/2012

Phone # 5026

Contract or Agreement: Modification No. 11 to the Supplemental Development Agreement TIF-5- Series...

Document Name: Modification No. 11 to the Supplemental Development Agreement T1F5 - Series 2010-...

City Obligation Amount:

Total Project Budget:

Uncommitted Account Balance:

Account Number:

Procurement Agreements

<u>Select...</u>	<u>Select...</u>
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Grant-Funded Agreements

Select... **Grant Name:**

Department	Signature	Date
1) Originating	Mary C. Cato	6/11/12
2) Legal	Mary C. Cato	6/11/12
3) Finance	mgf	6/11
4) Originating		
5) Copy Distribution		
a. Mayor's office (1 copies)		
b. Clerk-Treasurer (Original & 2 copies)		

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number _____

Meeting Type: Regular

Meeting Date: 6/14/2012

Action Requested By:
Legal

Agenda Item Type
Resolution

Subject Matter:

Modification No. 11 to the Supplemental Development Agreement TIF-5 - Series 2010 -B.

Exact Wordling for the Agenda:

Modification No. 11 to the Supplemental Development Agreement TIF-5 - Series 2010 - B to Annexation and Development Agreement Between the City of Huntsville and LW Redstone Company, LLC as Adopted and Approved by Resolution No. 10-892 on October 28, 2010 and as Amended by Modifications No. 1,2,3,4,5,6,7,8,9 and 10.

Note: If amendment, please state title and number of the original

Item to be considered for: Action

Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what Council action will provide, allow and accomplish and; any other information that might be helpful.

Associated Cost:

Budgeted Item: Select...

MAYOR RECOMMENDS OR CONCURS: Yes

Department Head: Mary C. Cates

Date: 6/11/12

RESOLUTION NO. 12- _____

WHEREAS the City Council of the City of Huntsville, Alabama, does hereby declare in accordance with Code of Alabama (1975) that the Mayor be, and is hereby authorized to enter into a Modification No. 11 to the Supplemental Development Agreement TIF5 - Series 2010-B to Annexation and Development Agreement Between the City of Huntsville and LW Redstone Company, LLC, as Adopted and Approved by Resolution No. 10-892 on October 28, 2010 and as Amended by Modifications No. 1,2,3,4,5,6,7,8,9 and 10. on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as "Modification No. 11 to the Supplemental Development Agreement TIF5 - Series 2010-B to Annexation and Development Agreement Between the City of Huntsville and LW Redstone Company, LLC, as Adopted and Approved by Resolution No. 10-892 on October 28, 2010 and as Amended by Modifications No. 1,2,3,4,5,6,7,8,9 and 10." consisting of four(4) pages, and the date of June 14, 2012 appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document being permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

ADOPTED this the 14th day of June, 2012.

President of the City Council of
the City of Huntsville, Alabama

APPROVED this the 14th day of June, 2012.

Mayor of the City of
Huntsville, Alabama

STATE OF ALABAMA)

COUNTY OF MADISON)

**MODIFICATION NO. 11 TO SUPPLEMENTAL DEVELOPMENT
AGREEMENT TIF5 – SERIES 2010-B TO ANNEXATION AND DEVELOPMENT
AGREEMENT BETWEEN THE CITY OF HUNTSVILLE AND LW REDSTONE COMPANY, LLC,
AS ADOPTED AND APPROVED BY RESOLUTION NO. 10-892 ON OCTOBER 28TH, 2010
AND AS AMENDED BY MODIFICATIONS NO. 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10.**

Pursuant to Section 7.3 of the Annexation and Development Agreement dated March 25, 2010, ("Agreement"), between THE CITY OF HUNTSVILLE, ALABAMA, a municipal corporation organized and existing pursuant to the laws of the State of Alabama ("City") and L W REDSTONE COMPANY, LLC, a Delaware limited liability company ("Owner"), City and Owner enter into this Modification No.11 to the Supplemental Development Agreement (SDA) TIFS Series 2010-B, which was previously adopted and approved on October 28, 2010 and previously amended on May 12, 2011, June 23, 2011, July 14, August 11, August 25, 2011, September 22, 2011, December 15, 2011 , January 26, 2012, March 22, 2012, and May 24, 2012 and hereby provide more specifically for the obligations of City and Owner.

Inasmuch as some contracts were awarded or changed to total amounts different from the budget amounts previously allocated for the work by SDA TIF5 Series 2010-B or amendments thereto, the following modifications are hereby made to reconcile those monetary amounts so as to more accurately describe the amounts remaining available for expenditure within the \$20,000,000 Maximum Amount:

1. Within Section B., the amount originally budgeted and allocated for the contract with McDonald Brothers Construction, Inc. for Redstone Gateway, Package 1A-5 Topsoil Removal, Project No. 65-10-SP21, as adopted by Resolution No. 11-618 of August 25, 2011 was \$ 470,600.00. Change Order No. 1, in the amount of \$178,456.00 is needed to incorporate field directives #1 thru #6, increase quantity of topsoil removal to stockpile A and B, and add repairs to the entrance pond for Package 1A-5 for the Redstone Gateway project. The revised total contract amount will be \$ 649,056.00. Therefore, the amount of \$178,456.00 shall be transferred from the category in Section B. OWNER IMPROVEMENTS, the subsection entitled "ENGINEERING AND CONSTRUCTION COSTS TO BE DETERMINED".
2. Within Section B., the amount originally budgeted and allocated for the contract with Reed Contracting Services, Inc. for Redstone Gateway, Phase 1A-Roadway, Paving & Intersection Modifications, Project No. 6S-10-SP21-3, as adopted by Resolution No. 10-1028 of December 16, 2010, and amended by Resolution No. 11-720 of September 22, 2011 was \$491,395.89. Change

President of the City Council of the
City of Huntsville, Alabama
Date: _____

Order No. 2, in the deductive amount of \$2,896.16, is needed to incorporate field directives #1 thru #3 and add asphalt material escalation for Package 1A-3 on the Redstone Gateway project. The total revised contract amount will be \$ 488,499.73. Therefore, the amount of \$2,896.16 shall be transferred to the category in Section B. OWNER IMPROVEMENTS, the subsection entitled "ENGINEERING AND CONSTRUCTION COSTS TO BE DETERMINED".

3. Within Section B. OWNER IMPROVEMENTS, the subsection entitled "ENGINEERING AND CONSTRUCTION COSTS TO BE DETERMINED," the amount of \$189,556.53 allocated and budgeted for undefined engineering and construction costs is hereby decreased by \$ 175,559.84 to \$ 13,996.69.

All other terms and conditions of the SDA TIF5-SERIES 2010-B, as previously modified, remain unchanged.

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement.

("OWNER")

L W REDSTONE COMPANY, LLC

Dated: _____, 2012

By: _____

Its: _____

STATE OF MARYLAND)

COUNTY OF HOWARD)

I, the undersigned, a Notary Public in and for said County and in said State, hereby certify that _____, as _____, of LW Redstone Company, LLC, a Delaware corporation, is signed to the foregoing document, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, (s)he, as such officer and with full authority, executed the same for and as the act of said corporation on the date the same bears date.

GIVEN under my hand and official seal this the _____ day of _____, 2012.

Notary Public

(SEAL)

My Commission Expires: _____

("CITY")

THE CITY OF HUNTSVILLE, ALABAMA,
A municipal corporation

Dated: _____, 2012

By: _____

Tommy Battle

Its: Mayor

ATTEST:

Charles E. Hagood

Clerk-Treasurer

STATE OF ALABAMA)

COUNTY OF MADISON)

I, the undersigned, a Notary Public in and for said County and in said State, hereby certify that Tommy Battle and Charles E. Hagood, as Mayor and City Clerk-Treasurer, respectively, of the City of Huntsville, Alabama, a municipal corporation, are signed to the foregoing document, and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they, as such officers and with full authority, executed the same for and as the act of said corporation on the date the same bears date.

GIVEN under my hand and official seal this the ____ day of _____, 2012.

Notary Public

(SEAL)

My Commission Expires: _____